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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

MARK R.M. HOLMSTRAND,

Plaintiff,

vs.

Case No. A05-0066 CV (TMB)

NEW YORK LIFE INSURANCE
COMPANY, a foreign corporation, PAUL
REVERE LIFE INSURANCE COMPANY,
a Massachusetts Corporation,
UNUMPROVIDENT CORPORATION, a
Delaware Corporation (d/b/a, inter alia, Paul
Revere Life Insurance Company, Unum
Life Insurance Company, a Maine
Corporation, Provident Life and Accident
Insurance Company, a Tennessee
Corporation, and GENEX, a Pennsylvania
Corporation) and ROBERT
LEIMGRUBER, an Ohio Resident.

**NON-OPPOSED MOTION TO
EXTEND TIME TO FILE FINAL
WITNESS LISTS AND PROVIDE
EXPERT REPORTS and
STIPULATION EXTENDING TIME
TO CONDUCT EXPERT
DEPOSITIONS**

COMES NOW plaintiff, Mark R.M. Holmstrand, by and through his attorneys and
moves to extend the time to file final witness lists and disclose expert reports in this matter
until February 21, 2006. Witness lists in this matter are currently due to be filed on January 30,
Holmstrand v. New York Life, et al.
Non-Opposed Motion to Extend Time To File Final
Witness Lists and Exchange Expert Reports

2006 and expert disclosures are due on February 1, 2006. Scheduling and Planning Order Docket No. 23 at ¶¶ 4, 5 (July 26, 2005); Stipulation for Extension of Time Re Experts and Order Docket No. 29 (November 18, 2005). The parties further stipulate to extend the time to do expert depositions, if any, until March 31, 2006.

Plaintiff moves for this extension for the following reasons:

1. Plaintiff and defendant are engaged in settlement discussions. Should those discussions prove successful there will be no need to expend the time to prepare and file a final witness list or to incur the expense in obtaining an expert report. If such settlement discussions are not successful the following additional reasons support the requested extension.
2. Plaintiff has previously attempted to take the deposition of defendant Leimgruber without success. The deposition was first continued at Mr. Leimgruber's request and subsequently he has failed to keep in contact with his counsel. A deposition for him has now been scheduled and should he appear the information that he provides will be provided to plaintiff's expert for consideration in plaintiff's expert's report.
3. Should, as anticipated Mr. Leimgruber not attend his deposition then plaintiff will move for appropriate sanctions under FRCP 37(d) and should such motion be granted, then plaintiff anticipates the scope of issues that will need to be litigated and number of witnesses will be substantially reduced.
4. Should settlement discussions not prove successful plaintiff will be moving to enforce a subpoena against defendant Leimgruber's former employer with respect to documents that said employer has continued to fail to provide despite having already been ordered produced. It is anticipated that additional documents anticipated through that subpoena enforcement action would be provided to plaintiff's expert.

1 Plaintiff's counsel has spoken with counsel for Leimgruber, the only remaining
2 defendant, and he does not oppose this motion.

3 DATED this 27th day of January, 2006.
4

5 /s/ Jeffrey K. Rubin
6 Jeffrey K. Rubin
7 AK Bar No. 8206061
8 Friedman, Rubin & White

9 Attorney for Plaintiff

10 I declare under penalty of perjury
11 the above and foregoing was
12 served by first class mail
13 this 27 day of January, 2006 on
14 Scott Hendricks Leuning.

15 /s/ Jeffrey K. Rubin
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